

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

Michael Gilmore, as Administrator of the Estate of Jenna Lyn Gilmore)	
)	
)	
Plaintiff)	
v.)	
)	Civil Action No. 2:12-CV-00547-AJS
Ford Motor Company)	LEAD CASE
)	
Defendant)	
v.)	
)	
Charles Cooper, Michael Pleskovich and Barbara J. Pleskovich as Administrators of the Estate of Michael Craig Pleskovich, and Frank Janoss,)	
)	
)	
Third-Party Defendants)	

CONSOLIDATED WITH

Michael L. Pleskovich and Barbara J. Pleskovich, as Co-Administrators of the Estate of Michael Craig Pleskovich)	
)	
)	
Plaintiffs)	
v.)	
)	Civil Action No. 2:12-CV-00548-AJS
Ford Motor Company)	MEMBER CASE
)	
Defendant)	
v.)	
)	
Charles Cooper and Frank Janoss,)	
)	
)	
Third-Party Defendants)	

MEMORANDUM ORDER RE: THIRD PARTY DEFENDANT FRANK JANOSS'
MOTION FOR SUMMARY JUDGMENT (DOC. NO. 230)

Presently before this Court is Third Party Defendant Frank Janoss' ("Janoss") Motion for Summary Judgment. Doc. No. 230. Charles Cooper filed a Third-Party Complaint against Janoss seeking contribution and/or indemnity. Doc. No. 56. The estate of Michael Pleskovich filed a cross-claim against Janoss seeking contribution and/or indemnity for the claim of the estate of Jenna Gilmore. Doc. No. 63. On January 25, 2013, this Court granted Janoss' Motion for Partial Summary Judgment and dismissed both of Cooper's claims against Janoss.¹ Doc. No. 156. The Pleskovichs' Amended Answer included that they had entered into a Pro Rata Joint Tortfeasor release with Plaintiff Michael Gilmore on November 28, 2013. Doc. No. 200. In light of this new information, Janoss moves this Court to grant summary judgment in his favor on the same grounds he relied upon in his previous Motion to Dismiss Cooper's claims against him.² A Response to this Motion was ordered to be filed on or before February 26, 2013. Doc. No. 177. As of this date, no response has been filed.

On November 28, 2012, the Pleskovichs entered into a Pro Tanto Joint Tortfeasor Release with Plaintiff Michael Gilmore as Administrator of the Estate of Jenna Lyn Gilmore. The release provides, in pertinent part, that:

For and in consideration of the foregoing, and other good and value consideration, Gilmore, realizing that there is doubt and uncertainty as to the nature and extent of its injuries, losses and damages and as to the liability of Pleskovich . . . has released and discharged . . . Pleskovich . . . from any and all actions, causes of action, claims, demands, damages . . . and also to the extent of their liability of contribution to other joint tortfeasors arising out of or in any way growing out of any and all known and unknown injuries . . . and all liability arising out of said

¹ Cooper did not contest Janoss' Motion for Summary Judgment as to the claim for indemnity.

² See this Court's previous Memorandum Opinion for a more detailed discussion of this case and its procedural posture. Doc. No. 155.

automobile accident

Doc. No. 231, Exhibit A.

This release is not a general release and specifically provides that Gilmore reserves the right to pursue any claims the Estate may have against another party. According to the Uniform Contribution Among Tortfeasors Act (“UCATA”), “a joint tortfeasor who enters into a settlement with the injured person is not entitled to recover contribution from another joint tortfeasor whose liability to the injured person is not extinguished by the settlement.”⁴² Pa.C.S.A. § 8324(c). As such, Janoss cannot be liable to the Pleskovichs. *Hanko v. United States*, 583 F. Supp. 1280, 1284 (W.D. Pa. 1984) and Doc. No. 155.

AND NOW, this 28th day of February, 2013, IT IS HEREBY ORDERED THAT Janoss’ Motion for Summary Judgment (Doc. No. 230) is **GRANTED**. Because there are no remaining claims against him, Janoss will be dismissed from this action with prejudice.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All counsel of record